



STANDARD FORM OF AGREEMENT BETWEEN
OWNER AND ARCHITECT/ENGINEER

This **AGREEMENT** is made as of:

January 9, 2007

BETWEEN the State of Montana, acting through its Director, Department of Administration, hereinafter identified as the “**OWNER**”:

*Department of Administration, State of Montana
P.O. Box 200103, 1520 East Sixth Avenue
Helena, MT 59620-0103*

And the **ARCHITECT/ENGINEER**:

*[FIRM NAME]
[ADDRESS]
[CITY, STATE, ZIP]
[phone, fax]*

For the following Project:

*[PROJECT NAME]
[AGENCY NAME]
[A/E PROJECT #]*

1 PART 1

1.1 COMPENSATION

- 1.1.1 The Owner shall compensate the Architect/Engineer in accordance with the full Terms and Conditions of this Agreement as follows:

BASIC SERVICES	AMOUNT
Schematic Design (SD)	\$0.00
Design Development (DD) [or Preliminary Design (PD) for combined SD/DD]	\$0.00
Construction Documents (CD)	\$0.00
Bidding Phase (Bid)	\$0.00
Construction Contract Administration (CA)	\$0.00
Basic Services Total =	\$0.00
ADDITIONAL SERVICES	AMOUNT
Programming	\$0.00
Site Survey	\$0.00
Geotechnical Investigation	\$0.00
Record Drawings	\$0.00
Warranty Inspection	\$0.00
Bidding Document Reproduction	\$0.00
Additional Services Total =	\$0.00
SUPPLEMENTAL SERVICES	AMOUNT
	\$0.00
Supplemental Services Total =	\$0.00
	AMOUNT
TOTAL SUM FOR ALL SERVICES =	\$0.00

- 1.1.2 The compensation in this Agreement is a Lump-Sum, Fixed Fee amount for all Services, Responsibilities, and Duties of the Architect/Engineer required to complete the Project. If there are services required beyond the scope of this Agreement, such services shall be negotiated with the Owner. Services beyond the scope of this Agreement must be authorized by the Owner prior to performance of such services or they shall be at the Architect/Engineer's expense.
- 1.1.3 The Owner will make progress payments to the Architect/Engineer on account of services rendered. Any remaining amounts due after Substantial Completion will be paid to the Architect/Engineer upon completion of particular service items delineated in this Agreement or upon Final Acceptance of the Project.
- 1.1.4 Each request for payment submitted by the Architect/Engineer shall be on the Owner's form. Pay requests shall not be submitted to the Owner on more than a monthly basis. The Owner has thirty (30) calendar days from the date of receipt to process payment to the Architect/Engineer of all undisputed amounts.
- 1.1.5 If the Owner determines that any representations on pay requests submitted by the Architect/Engineer are wholly or partially inaccurate, the Owner may withhold payment of amounts in dispute until the inaccuracy and its cause have been corrected to the Owner's satisfaction.
- 1.1.6 The Owner may make deductions or withhold payment of amounts in dispute or for damages to the Owner involving the Architect/Engineer or the Architect/Engineer's consultants.

- 1.1.7 By submission of the final pay request the Architect/Engineer certifies to the Owner that all bills for materials, supplies, utilities and for all other items or services furnished or caused to be furnished and used in the execution of this Agreement have been fully paid to date and that there are no unpaid claims or demands of State or Federal Agencies, consultants, employees, or any others resulting from or arising out of any work done under this Agreement.
- 1.1.8 Reimbursable Expenses.

1.1.8.1 All reimbursable expenses for services as part of this Agreement are included in the Total Sum.

1.1.8.2 Reimbursable Expenses are defined as:

1.1.8.2.1 transportation in connection with the Project, out-of-town travel and subsistence, and electronic communications;

1.1.8.2.2 document reproductions for other than bidding, plots, standard form documents, telephone/cell phone, postage, handling and delivery;

1.1.8.2.3 expense of professional liability insurance dedicated exclusively to this Project or the expense of additional insurance coverage or limits requested by the Owner in excess of that normally carried by the Architect/Engineer and the Architect/Engineer's consultants; and,

1.1.8.2.4 other similar direct Project-related expenditures.
- 1.1.9 Records of expenses for all services performed, changes in service, reimbursable expenses, and other expenses shall be available to the Owner or the Owner's authorized representative at mutually convenient times.
- 1.1.10 Other expenses incurred by the Architect/Engineer may be compensated if authorized in advance by the Owner for transportation, lodging, and per diem for other than programming, project design meetings, or Construction Contract Administration site visits. All Other expenses shall be negotiated with and approved by the Owner prior to the Architect/Engineer incurring such.

1.2 **ENUMERATION OF AGREEMENT**

- 1.2.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect/Engineer and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Architect/Engineer. This Agreement is also comprised of (if checked):
- 1.2.2 Part 2 (below); ☐
- 1.2.3 Part 3 (below); ☐
- 1.2.4 Owner's Preliminary Project Program; ☐
- 1.2.5 Other documents enumerated as follows: ☐

1.2.5.1 [List other documents, if any, forming part of this Agreement]
- 1.2.6 Special terms and conditions that form part of this Agreement are as follows: ☐

1.2.6.1 [List special terms and conditions]

1.3 **PROJECT TEAM**

- 1.3.1 The Owner:

1.3.1.1 Design Project Manager is:

[Name]
[Phone/Fax]
[email]

1.3.1.2 Construction Project Manager is:

[Name]
[Phone/Fax]
[email]

1.3.1.3 Agency point of contact is:

[Name]
[Phone/Fax]
[email]

1.3.1.4 The Owner's Project Manager (respective to the phase of the Project) is authorized to act on the Owner's behalf. The Owner or the Owner's Project Manager shall render decisions in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect/Engineer's services.

1.3.1.5 The Agency may be comprised of multiple groups or individuals. The Architect/Engineer shall be aware that the Agency is not able to bind the Owner and shall communicate and coordinate with the Owner's Project Manager in all instances regarding the Project, Project Program, Project Schedule, Project Budget, transfers of information, scheduling meetings, and any Agency requests.

- 1.3.1.6 The Architect/Engineer shall communicate with the Agency through the Owner's Project Manager unless given permission by the Project Manager to communicate and coordinate directly with the Agency.
- 1.3.2 The Architect/Engineer:
 - 1.3.2.1 Designated Representative is:

[Discipline]
 [Name]
 [Phone/Fax]
 [email]
 - 1.3.2.2 The Architect/Engineer's Designated Representative shall be authorized to act on the Architect/Engineer's behalf with respect to the Project and to bind the Architect/Engineer and the Architect/Engineer's consultants.
- 1.3.3 Consultants retained at the Architect/Engineer's expense are:
 - 1.3.3.1 [Firm Name]

[Discipline]
 [Name]
 [Phone/Fax]
 [email]
 - 1.3.3.2 [Firm Name]

[Discipline]
 [Name]
 [Phone/Fax]
 [email]
 - 1.3.3.3 [Firm Name]

[Discipline]
 [Name]
 [Phone/Fax]
 [email]
 - 1.3.3.4 [Firm Name]

[Discipline]
 [Name]
 [Phone/Fax]
 [email]
 - 1.3.3.5 [Firm Name]

[Discipline]
 [Name]
 [Phone/Fax]
 [email]

1.4 GENERAL TERMS AND CONDITIONS

- 1.4.1 The Owner and Architect/Engineer shall cooperate with one another to fulfill their respective obligations under this Agreement. Both parties shall endeavor to maintain professional working relationships among all members of the Project Team.
- 1.4.2 Licensing Requirements. By signature on this Agreement, the declaration is made that the Architect/Engineer is professionally qualified, registered, and licensed to practice in the State of Montana. In accordance with Montana law, the Architect/Engineer shall stamp and sign the Contract Documents (drawings and specifications).
- 1.4.3 The Architect/Engineer shall be responsible for the professional quality, technical accuracy, and coordination of all concepts, programming, reports, designs, drawings, specifications, and other services furnished under this Agreement. The Architect/Engineer shall, without additional compensation, correct or revise any errors, deficiencies, or omissions in concepts, programming, reports, designs, drawings, specifications, estimates, and other services.
- 1.4.4 Neither the Owner's review, approval or acceptance of, nor payment for, the services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and the Architect/Engineer shall be and remain liable to the Owner in accordance with applicable law for all costs and damages to the Owner caused by the Architect/Engineer's negligent performance of any of the services furnished under this Agreement.
- 1.4.5 Rights & Remedies. The rights and remedies of the Owner allowed by law are in addition to any rights and remedies provided in this Agreement.
- 1.4.6 Relationship. The relationship of the Architect/Engineer to the Owner under this Agreement is that of an Independent Contractor. The Architect/Engineer (and the Architect/Engineer's consultants) is not an employee of the Owner, is not carrying out the regular business of the Owner, and is not subject to the same employment regulations as applicable to employees of the Owner. Each of the parties will be solely and entirely responsible for their own acts and the acts of their employees. No benefits, special considerations, or employer/employee-type provisions are provided by the Owner to the Architect/Engineer, the Architect/Engineer's employees, or the Architect/Engineer's consultants, or the consultants' employees.

- 1.4.7 Successors and Assigns. The Owner and the Architect/Engineer each bind themselves, their partners, successors, legal representatives, and assigns to the other party to this Agreement and to the partners, successors, legal representatives and assigns of such other party in respect to all covenants of this Agreement. Neither the Owner nor the Architect/Engineer shall assign or transfer its interest in this Agreement without written consent of the other.
- 1.4.8 Records and Documentation:
- 1.4.8.1 The Architect/Engineer and the Architect/Engineer's consultants shall be aware that all documentation, including electronic correspondence, in the Owner's possession are public records and the Owner is obligated to make all such records available upon request to any party or individual unless such records meet statutory requirements or Montana Administrative Rules for confidentiality and non-disclosure.
- 1.4.8.2 The Owner shall have access to all records, documents, correspondence, and files of the Architect/Engineer, its employees, engineers, and consultants pertaining to the Project. This access shall be continuing and survive Final Acceptance of the Project or the termination of this Agreement for either cause or convenience. Such records shall be kept in a generally recognized format for a period of three (3) years from the effective date of termination of this Agreement or Final Acceptance of the Project by the Owner. All records shall be available to the Owner, Legislative Auditor, and the Legislative Fiscal Analyst or their authorized representatives. The Owner does not consider documents, files, and records in the Architect/Engineer's possession or the Architect/Engineer's consultants' possession to be public records unless determined to be so by law or unless they come into the Owner's possession.
- 1.4.9 The Architect/Engineer warrants that he has not employed or retained any person, partnership, or corporation, other than a bona fide employee or principle owner working for the Architect/Engineer to solicit or acquire the Project described in this Agreement.
- 1.4.10 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect/Engineer except as provided in Paragraph 1.10.

1.5 RESPONSIBILITIES OF THE PARTIES

1.5.1 Owner's Responsibilities:

- 1.5.1.1 Unless otherwise provided under this Agreement, the Owner shall provide information in a timely manner regarding requirements and parameters of the Project. The Owner shall furnish information, in conjunction with the Architect/Engineer's services, setting forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, special equipment, systems and site requirements as applicable to the Project.
- 1.5.1.2 The Owner shall examine documents submitted by the Architect/Engineer and shall render decisions pertaining thereto.
- 1.5.1.3 The Owner shall furnish the services of consultants other than those designated as part of the Architect/Engineer's responsibility or authorize the Architect/Engineer to furnish them as a change in service or scope.
- 1.5.1.4 The Owner shall furnish testing, inspections, and reports as necessary for the Project such as geotechnical, structural, mechanical, chemical, hazardous materials, and other laboratory tests, inspections, and reports not incorporated into this Agreement or shall authorize the Architect/Engineer to furnish them as a change in service or scope.
- 1.5.1.5 The Owner shall furnish accounting and auditing services as may be necessary for the Project as he may require to ascertain how or for what purposes the Architect/Engineer has used the funds paid under the terms of this Agreement.
- 1.5.1.6 If the Owner observes or otherwise becomes aware of any error, fault, omission, or defect in the Project or non-conformance with the documentation or Plans and Specifications, he shall give prompt notice thereof to the Architect/Engineer.
- 1.5.1.7 Upon request, the Owner shall prepare for the Architect/Engineer the necessary bidding information, wage rates, and the General and Supplementary General Conditions of the Construction Contract, commonly called the "Boiler Plate", for inclusion into the Contract Documents. If the Owner chooses to utilize the AIA A201, General Conditions of the Contract for Construction, the Architect/Engineer shall obtain and include the AIA A201 in each copy of the Contract Documents at no additional cost to the Owner.

1.5.2 Architect/Engineer's Responsibilities:

- 1.5.2.1 The Architect/Engineer's services shall be performed as expeditiously as is consistent with professional skill and care, the essential orderly progress of the Project, and in accordance with the Project Schedule. The Architect/Engineer recognizes and agrees that time is of the essence of this Agreement in the performance of its services.

- 1.5.2.2 The Architect/Engineer shall maintain the confidentiality of information specifically designated as confidential by the Owner, unless withholding such information would violate the law or create the risk of significant harm to the public. The Architect/Engineer shall require similar agreements of the Architect/Engineer's consultants to maintain the confidentiality of information specifically designated as confidential by the Owner.
- 1.5.2.3 Except with the Owner's knowledge and express written consent, the Architect/Engineer shall not engage in any activity, or accept any employment, other agreement, interest, or contribution that would reasonably appear to compromise the Architect/Engineer's professional judgment with respect to this Project.
- 1.5.2.4 The Architect/Engineer is expressly prohibited from participating in or bidding on any part of the Contract for Construction or multiple construction contracts, if any, let by the Owner.
- 1.5.2.5 The Architect/Engineer shall review laws, codes, and regulations applicable to the Architect/Engineer's services. The Architect/Engineer shall respond in the design of the Project to requirements imposed by governmental authorities having jurisdiction over the Project.
- 1.5.2.6 The Architect/Engineer shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner and/or the Agency. The Architect/Engineer shall provide prompt written notice to the Owner if the Architect/Engineer becomes aware of any errors, omissions, or inconsistencies in such services or information.

1.6 PROJECT BUDGET

- 1.6.1 The Owner shall provide information regarding the Owner's Project Budget. While the Owner and Architect/Engineer shall endeavor to work cooperatively to establish the parameters and individual aspects of the Budget, the Architect/Engineer agrees that the Owner, at its sole discretion, retains the right to establish all parameters and aspects of the Project Budget.
- 1.6.2 The Architect/Engineer shall review the Preliminary Project Program and Project Budget furnished by the Owner and make recommendations for the requirements of the Project. The Architect/Engineer shall establish the requirements and all design parameters in cooperation with the Owner that shall then be incorporated into the Project Program and design of the Project.
- 1.6.3 The Architect/Engineer shall assist the Owner with monitoring, tracking, and adjusting the Project Budget throughout the design process. The Architect/Engineer shall assist the Owner with monitoring, tracking, and adjusting the Project Budget, at minimum, as follows:
 - 1.6.3.1 "Soft" Costs:
 - 1.6.3.1.1 Architect/Engineer fees and costs with a breakdown of Basic, Additional, and Supplemental Services as provided in this Agreement;
 - 1.6.3.1.2 Other design services, if under separate agreement to the Owner (e.g. 3rd party plan reviews, value engineering, etc.);
 - 1.6.3.1.3 Agency costs: furniture, fixtures, and equipment; technical equipment allowance; information technology, voice and data allowance; moving expenses; final hook-ups; agency project support costs; and, miscellaneous/other.
 - 1.6.3.1.4 Construction-related costs and services: advertising; plan review, building permit, and impact fees by building code jurisdiction; utilities; artwork; materials testing and inspections; owner's on-site representation; commissioning; legal expenses, dispute resolution; owner's supervisory fee; and, miscellaneous/other.
 - 1.6.3.2 "Hard" Costs: construction cost; design phase contingencies; inflation (compounded to the mid-point of the construction duration); and, construction phase contingencies.
- 1.6.4 Estimates of Construction Cost provided by the Architect/Engineer throughout the design process are not the Project Budget but do comprise part of the Project Budget. The Owner and Architect/Engineer shall endeavor to work cooperatively to adjust the Project Budget or the Project Program and scope as necessary based upon the Architect/Engineer's Estimates of Construction Cost to keep the Project within the Owner's available funding.
- 1.6.5 The Owner's increase to any part of the Project Budget during the design process based upon the Architect/Engineer's Estimate is not prima facie evidence that the Architect/Engineer is due additional fees nor does such an increase necessarily indicate a Change in services to the Architect/Engineer's scope as negotiated and agreed upon at the time of execution of this Agreement.

1.7 PROJECT SCHEDULE

- 1.7.1 The Owner and Architect/Engineer shall cooperatively develop a Project Schedule consistent and compliant with the Owner's needs for timely delivery of the Project.
- 1.7.2 The Architect/Engineer shall submit the Project Schedule for the Owner's approval which initially shall be consistent with the time periods established in this Agreement and the Project Program. The Project Schedule shall be provided to the Owner in "Gantt" chart format.

- 1.7.3 Adjustments to the Project Schedule shall be made only as agreed upon by both parties and documented as either part of meeting minutes or other separate documentation. The Architect/Engineer shall provide copies to the Owner of all revised schedules.
- 1.7.4 Time limits established by the Project Schedule approved by the Owner shall not be exceeded by the Architect/Engineer or Owner except as adjusted by the agreement of both parties and as documented.
- 1.7.5 At minimum, the Project Schedule shall include durations, allowances, and milestones for the following as applicable with the services to be provided under this Agreement:
- 1.7.5.1 Project Initiation: project kick-off and scope meeting; data gathering and investigations; programming and concept development; and, all project development meetings.
 - 1.7.5.2 Design: all design and coordination meetings; charrettes; schematic design; site survey and geotechnical investigation; design development (or preliminary design if combined SD/DD); construction documents; meetings with building code office having jurisdiction; reproduction of bidding documents; and, owner review and comment period for each phase of design.
 - 1.7.5.3 Bidding: advertising; pre-bid walk-through; plan review by building code office having jurisdiction; bid opening date; and, contract award and return of bonding, insurance, and signed contract.
 - 1.7.5.4 Construction: notice to proceed and pre-construction meeting; duration of construction; commissioning duration (if any); date for substantial completion; date for completion of punch list and final acceptance; and, warranty duration.

1.8 CHANGE IN SERVICES

- 1.8.1 Change in services of the Architect/Engineer, including services required of the Architect/Engineer's consultants, may be accomplished after execution of this Agreement without invalidating the Agreement.
- 1.8.2 A change in the project scope or program is not prima facie evidence that the Architect/Engineer shall be due additional fees nor does such a change necessarily indicate a change in services.
- 1.8.3 The parties shall negotiate and enumerate changes in services by signed, written addendum to this Agreement except for Supplemental Services agreed to by the Owner. A supplemental service agreed to by the Owner may be billed directly as part of the Architect/Engineer's pay requests without addendum. Such supplemental services do not invalidate any portion of this Agreement.
- 1.8.4 The Architect/Engineer shall promptly notify the Owner prior to providing any services it considers to be a change from those enumerated in this Agreement.
- 1.8.4.1 If the Owner deems that all or a part of such services are not required, the Owner shall give prompt notice to the Architect/Engineer, and the Architect/Engineer shall have no obligation to provide those services.
 - 1.8.4.2 If the Owner deems that all or a part of such services are required, the Owner shall give prompt notice to the Architect/Engineer, and the two parties shall negotiate an appropriate change in services addendum to this agreement.
 - 1.8.4.3 The Owner may determine that all or part of such services are required but is not obligated to agree that such services are a change in the services of the Architect/Engineer. All such instances shall be subject to the "Dispute Resolution" article of this Agreement. The Architect/Engineer shall continue faithful performance of services which shall include matters in dispute.
- 1.8.5 None of the following circumstances are prima facie evidence that the Architect/Engineer is experiencing a change in services for the Project, due adjustment to the schedule, or due additional compensation:
- 1.8.5.1 change in the instructions or approvals given by the Owner that necessitate revisions in program, design, or Contract Documents unless such changes are extensive, significantly alter the basic concepts of the Project, or are done so before completion of Design Development (or Preliminary Design);
 - 1.8.5.2 enactment or revision of codes, laws or regulations or official interpretations which necessitate changes to previously prepared Contract Documents as the Architect/Engineer is charged with being familiar with all such items and with coordinating all issues with officials having jurisdiction;
 - 1.8.5.3 unless there is significant change in the Project size and complexity as a result of changes to the Project Program;
 - 1.8.5.4 performance or failure of performance on the part of the Owner or the Owner's consultants or contractors unless such performance or failure are demonstrated to have damaged the Architect/Engineer;

1.8.5.5 a dispute resolution proceeding or a legal proceeding related to the Project; or,

1.8.5.6 the Owner's increasing the Project Budget or the Estimated Construction Cost to adequately fund the Project Program, or extension of the Project Schedule.

1.9 OWNERSHIP OF DOCUMENTS

1.9.1 All documents developed under this Agreement are and shall become the property of the Owner whether the Project for which they are made is or is not executed.

1.9.2 The signing of this Agreement shall constitute a complete transfer of ownership, intellectual property, and copyright of all documents from the Architect/Engineer to the Owner upon Substantial Completion of the Project. Such transfer shall not be construed by the Architect/Engineer as a grant for usage by the Owner nor can it be revoked by the Architect/Engineer.

1.9.3 The Owner agrees to indemnify and hold harmless the Architect/Engineer from any and all claims, demands and causes of action of any kind or character arising separately from this Project as a result of reuse of the documents developed under this Agreement.

1.9.4 The Owner is restricted from using the Architect/Engineer's license seal/stamp/signature in any form or manner as part of any reuse of documents developed under this Agreement. The Architect/Engineer may not remove its license seal/stamp/signature from the Contract Documents used to construct the Project but may do so from electronic Record Drawings delivered to the Owner.

1.9.5 The Architect/Engineer shall have the right to include photographic or artistic representations of the design and construction of the Project among the Architect/Engineer's promotional and professional materials. The Architect/Engineer shall be given reasonable access to the completed Project to make such representations. However, the Architect/Engineer's materials shall not include the Owner's confidential or proprietary information regardless of whether or not the Owner has previously advised the Architect/Engineer in writing of the specific information considered by the Owner to be confidential or proprietary.

1.10 DISPUTE RESOLUTION

1.10.1 The Owner and Architect/Engineer shall endeavor to resolve controversies, claims, disputes, and other matters in question between them through good faith debate, discussion, and negotiation prior to submitting them to mediation, arbitration, or other legal proceeding.

1.10.2 During all debate, discussion, negotiation, mediation, and arbitration proceedings, the Architect/Engineer shall continue with performance of services in accordance with this Agreement. The Owner shall continue to make payment for services not in dispute in accordance with this Agreement.

1.10.3 Any and all controversies, disputes, claims, or other matters between the parties arising out of or related to this Agreement shall be decided and settled in accordance with this Agreement and with the Uniform Arbitration Act, Title 27, Chapter 5 of Montana Code Annotated.

1.10.4 City of Helena, Lewis & Clark County, State of Montana, shall be the venue for all mediation and arbitration proceedings unless otherwise agreed upon in writing by both parties. State of Montana law shall govern this Agreement and all dispute resolution and legal proceedings.

1.10.5 In no event shall any claim or dispute be made after the date when institution of legal or equitable proceedings based on such claim, dispute, or other matter in question would be barred by the applicable statute of limitations.

1.10.6 Mediation:

1.10.6.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to arbitration or the institution of legal or equitable proceedings by either party. However, the parties may mutually agree in writing to waive mediation and proceed directly to arbitration.

1.10.6.2 Request for mediation shall be filed in writing with the other party to the Agreement and the parties shall endeavor to agree upon a mediator and a location for the proceedings. Unless otherwise mutually agreed upon, mediation shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association, except Rule M-2 (filing with AAA). Requests for mediation shall not be filed with AAA unless agreed upon by both parties to do so.

1.10.6.3 A demand for arbitration shall not be made and no arbitration proceedings may occur until attempt at mediation has failed unless both parties have mutually waived mediation.

1.10.6.4 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another

location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in the venue specified in this Agreement.

1.10.7 Arbitration:

- 1.10.7.1 Controversies, claims, disputes, or other matters in question between the parties that are not resolved by mediation shall be decided by arbitration. Unless otherwise mutually agreed upon, arbitration shall be in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, except Rule A-3 (filing with AAA). Demands for arbitration shall not be filed with AAA unless agreed upon by both parties to do so.
- 1.10.7.2 A demand for arbitration may only be made upon conclusion of mediation unless mediation is waived by agreement of the parties to do so.
- 1.10.7.3 No arbitration arising out of or relating to this Agreement shall include, by consolidation or joinder or in any other manner, an additional person or entity not a party to this Agreement, except by written consent containing a specific reference to this Agreement and signed by the Owner, Architect/Engineer, and any other person or entity sought to be joined. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent or with a person or entity not named or described therein. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.
- 1.10.7.4 The ruling or award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in the venue specified herein.

1.10.8 Dispute Between Owner and Contractor:

- 1.10.8.1 In the event a dispute arises between the Owner and Contractor, or any other party, whether before, during, or after construction, the Architect/Engineer shall advise and consult with the Owner in attempting to resolve the dispute, whether informally or by mediation, arbitration, or other legal proceeding.
- 1.10.8.2 The Architect/Engineer will make himself and/or his consultants, agents, and employees available and shall permit inspection of his records by the Owner. In the event that it is ultimately determined that the Architect/Engineer did not cause or contribute to the dispute, damages, or expenses alleged, the Architect/Engineer shall be reimbursed by the Owner for all costs reasonably incurred upon final resolution of the dispute.
- 1.10.8.3 The Owner, at its sole discretion, may also enjoin the Architect/Engineer and/or consolidate any claim or dispute with the Architect/Engineer to any dispute between the Owner and Contractor. This condition is the singular and sole exemption to needing written consent of the Owner, Architect/Engineer, and any other party seeking to be joined in a dispute or claim between the Owner and the Contractor, as defined in the Contract for Construction.
- 1.10.8.4 If there is no formal determination or finding of fault, the Architect/Engineer and Owner may negotiate terms for payment unless the Owner suffered loss as a result of the dispute and believes the Architect/Engineer was responsible for or contributed to the loss or cause of the dispute. In such event, any such dispute between the Owner and the Architect/Engineer shall be subject to resolution per the terms of this Agreement.
- 1.10.8.5 The Owner will not be required to reimburse the Architect/Engineer at any time prior to a final determination or resolution of any claim or dispute. In the event the Architect/Engineer caused, in whole or in part, the dispute or controversy, the Architect/Engineer shall bear his costs for participating in the resolution.

1.11 WAIVER OF CONSEQUENTIAL DAMAGES

The Architect/Engineer and the Owner waive all consequential damages against each other that arise as a result any claims, disputes, or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages as a result of either party's termination in accordance with this Agreement.

1.12 MISCELLANEOUS PROVISIONS

- 1.12.1 This Agreement shall be governed by the laws of the State of Montana and venue for all proceedings shall be City of Helena, Lewis & Clark County.
- 1.12.2 Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued and the applicable statutes of limitations shall commence to run not

later than the effective date of termination or of Final Acceptance of the Project per the General Conditions of the Contract for Construction.

- 1.12.3 To the extent damages are covered by either's insurance, the Owner and the Architect/Engineer waive all rights against each other and against contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance current as of the date of this Agreement.
- 1.12.4 Insurance.
 - 1.12.4.1 The Architect/Engineer shall procure and maintain through termination or Final Acceptance of the Project, Workers Compensation Coverage, and commercial general liability insurance for protection from claims, actions, damages, and liabilities due to or arising out of bodily injury, automobile accidents, personal injury, sickness, disease, death, or other incidents for himself and all his employees and from claims, action, damages, and liability to or destruction of property arising out of services provided under this Agreement.
 - 1.12.4.2 The Architect/Engineer shall procure and maintain at its own expense professional liability coverage through termination or Final Acceptance of the Project.
- 1.12.5 Indemnification and Hold Harmless. The Architect/Engineer shall indemnify and hold harmless the State of Montana from and against all damages, claims and liability arising out of the negligent acts, errors, or omissions of the Architect/Engineer, its officers, agents, consultants, and employees, including all judgments, awards, losses, expenses, costs and attorneys' fees. The Owner shall indemnify and hold harmless the Architect/Engineer from and against all damages, claims and liability arising out of the negligent acts, errors, or omissions of the Owner, its officers, agents, consultants, and employees, including all judgments, awards, losses, expenses, costs and attorneys' fees.
- 1.12.6 Equal Opportunity Employment. The Architect/Engineer shall be familiar with and be responsible for and adhere to all Federal and State requirements regarding employment practices. All hiring and other employment practices of the Architect/Engineer shall be in accordance with Federal Equal Employment Opportunity laws, requirements and regulations and shall be nondiscriminatory, based on merit and qualifications without regard to race, color, religion, creed, political ideas, sex, age, marital status, physical or mental handicap, or national origin.
- 1.12.7 Personnel Expenses pertaining to mandatory or customary contributions and benefits related to employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, employee retirement plans, and similar contributions are entirely the responsibility of the Architect/Engineer.

1.13 TERMINATION OR SUSPENSION OF THIS AGREEMENT

- 1.13.1 The Owner or Architect/Engineer may terminate this Agreement upon giving written notice to the other that such party has defaulted and failed to fulfill its obligations under this Agreement. The written notice must contain an itemized description and accounting of default and failure. In the event of such default, the Architect/Engineer or Owner shall allow ten (10) calendar days for corrective action or submission of a corrective action plan by the other party. The ten (10) days shall be based upon the date of receipt of the notice by the other party. Should no satisfactory corrective action be taken or acceptable corrective action plan be provided by the defaulting party, the other shall have right to immediately terminate the Agreement through a subsequent written notice of termination.
- 1.13.2 The Owner may terminate this Agreement without cause or for convenience at any time upon giving written notice to the Architect/Engineer. If the Agreement is terminated without cause or for convenience, the Architect/Engineer shall be compensated for all services rendered prior to receiving the written notice.
- 1.13.3 If the Architect/Engineer fails to fulfill his obligations and the Agreement is terminated, the Owner may prosecute the Project to completion by contract or other means available. The Architect/Engineer shall be liable to the Owner for any and all additional costs incurred due to the Architect/Engineer's failure to perform. The rights and remedies available to the Owner provided herein are in addition to any and all other rights and remedies provided by law or equity.
- 1.13.4 If the Owner fails to make payments to the Architect/Engineer in accordance with this Agreement, such failure shall be considered substantial non-performance and cause for termination subject to the written notice provision above or, at the Architect/Engineer's option, cause for suspension of performance of services under this Agreement. If the Architect/Engineer elects to suspend services, prior to suspension of services the Architect/Engineer shall also give ten (10) days written notice to the Owner. In the event of a suspension of services, the Architect/Engineer shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. The Architect/Engineer shall resume services upon corrective action or submission of a corrective action plan by the Owner.

- 1.13.5 The Architect/Engineer cannot terminate this Agreement or suspend services if the Project is suspended or delayed by the Owner. The Owner shall notify the Architect/Engineer concerning any suspension or delay and may direct the Architect/Engineer to suspend services accordingly.
- 1.13.6 Any and all expenses, termination costs, anticipated overhead and profit, and consequential costs as a result of termination of this Agreement are specifically excluded and shall not be due the Architect/Engineer.

2 **PART 2**

Articles without a check box form an integral part of this Agreement. Articles with a check box also form an integral part of this Agreement if "checked"; unchecked boxes represent that the associated Article(s) is/are not part of the Architect/Engineer's services.

2.1 **PROJECT ADMINISTRATION AND MANAGEMENT (FOR PART 2)**

- 2.1.1 The Architect/Engineer shall be responsible for managing all the Architect/Engineer's services and administration of the Project in accordance with this Agreement. The Architect/Engineer shall consult with the Owner, research applicable design criteria, attend Project meetings, maintain a Project contact list, communicate with members of the Project team, issue progress reports and meeting minutes.
- 2.1.2 The Architect/Engineer shall coordinate the services provided by the Architect/Engineer and the Architect/Engineer's consultants with those services provided by the Owner and the Owner's consultants.
- 2.1.3 Upon request of the Owner, the Architect/Engineer shall make presentations to explain the Program, concepts, and design of the Project to other interested parties as coordinated by the Owner.
- 2.1.4 The Architect/Engineer shall submit documents to the Owner at intervals appropriate to the programming and concept process for purposes of evaluation and approval by the Owner. The Architect/Engineer shall be entitled to rely on approvals received from the Owner in the further development of the design.
- 2.1.5 The Architect/Engineer shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

2.2 **EVALUATION, DATA GATHERING, ANALYSIS, STUDIES, AND REPORTS**

- 2.2.1 The Architect/Engineer shall provide a preliminary evaluation of the information furnished by the Owner under this Agreement, including the Owner's preliminary project program and schedule requirements and Project Budget. The Architect/Engineer shall review such information to ascertain that it is consistent with the requirements of the Project and shall notify the Owner of any other information or consultant services that may be reasonably needed for the Project.
- 2.2.2 The Architect/Engineer shall provide a preliminary evaluation of the Owner's site for the Project based on the information provided by the Owner regarding site conditions, and the Owner's preliminary project program, schedule and budget.
- 2.2.3 The Architect/Engineer shall perform a data gathering effort regarding the Owner's initial conditions for the Project. Such data gathering effort shall involve, but not be limited to, an initial meeting to define data gathering parameters, proposed site locations, potential utilities, traffic patterns, pedestrian flow, aesthetic and architectural aspects of other facilities in the area in order to provide essential input to the Project Program and the Owner's decision-making process.
- 2.2.4 For existing facilities to be renovated, demolished, or rehabilitated, data gathering shall consist of: initial meeting to define data gathering parameters; preparation of site drawings and complete as-built CAD drawings of the existing facility (or area affected by the work) of architectural, mechanical, electrical and structural conditions if none are provided by the Owner; establishment of project boundaries; code evaluation of the existing facility; determination of all utility connections; hazardous materials investigation and report; prepare and analyze existing data pertaining to the facility's function, location, and operation.
- 2.2.5 The Architect/Engineer shall prepare and maintain the information obtained in data gathering for presentation to the Owner and inclusion into the Project Program.
- 2.2.6 If feasibility studies are requested by the Owner, the Architect/Engineer shall perform a detailed investigation and analysis to determine the technical, financial, and functional viability of the proposed Project. Fees for feasibility studies shall be incorporated into the costs of Programming.

2.3 **MASTER PLANNING**



- 2.3.1 Master Planning shall commence with the execution of the Agreement and shall be complete with the Owner's approval and acceptance of the completed Master Planning Document.
- 2.3.2 The overall goals and functions of the Master Plan are: [enter description].
- 2.3.3 The Master Plan shall focus on five elements:

- 2.3.3.1 vision and direction of the agency and how the facilities master plan integrates and assists in the overall objectives and targets;
- 2.3.3.2 documentation of existing facilities, utilities, themes, roads, sidewalks, campus access, and structures;
- 2.3.3.3 available and potentially-available open space;
- 2.3.3.4 transportation and circulation for all types of transit and pedestrians; and,
- 2.3.3.5 defining potential future development and growth.
- 2.3.4 Open Space Objectives in the Master Plan. The Master Plan should conserve and enhance existing open spaces and views to and from facilities and look for opportunities to create additional safe and attractive open spaces. The Master Plan shall:
 - 2.3.4.1 designate important open spaces and views and create policies to ensure their preservation and maintenance;
 - 2.3.4.2 identify areas that could become safe and pleasant new open spaces;
 - 2.3.4.3 propose opportunities to use landscape elements to strengthen the structure of the grounds;
 - 2.3.4.4 identify areas where links between open spaces could be improved in order to achieve a cohesive and accessible open space network;
 - 2.3.4.5 incorporate accessibility as an integral part of the design of propose design standards that will increase safety and comfort in campus open spaces; and,
 - 2.3.4.6 link the open space and circulation systems into the community and surrounding open space systems.
- 2.3.5 Transportation and Circulation Objectives in the Master Plan. The Master Plan should ensure access to and within the area by all modes of transportation and encouraging a safe and pleasant environment for pedestrians and bicyclists. The Master Plan shall:
 - 2.3.5.1 improve the pedestrian experience;
 - 2.3.5.2 increase access for pedestrians and bicyclists, both to and within the area;
 - 2.3.5.3 minimize conflicts between pedestrians, bicycles, and vehicles;
 - 2.3.5.4 improve public transportation with the goal of minimizing vehicle trips and related parking requirements;
 - 2.3.5.5 minimize the amount of new parking facilities while still providing parking for a variety of users, including the disabled, with the least impact on the area and the surrounding street system;
 - 2.3.5.6 locate, landscape, and screen parking to prevent detracting from the overall quality of the campus/facility environment while promoting safety and security; and,
 - 2.3.5.7 clearly identify access and improve signage around campus/facility.
- 2.3.6 Future Development Objectives of the Master Plan. Sites should be selected and developed to contribute to the enhancement of the campus/facility environment without detracting from the fundamental qualities of the area. Each potential site should be developed to:
 - 2.3.6.1 improve the environment with high quality architecture and open space integrated with the building design;
 - 2.3.6.2 enhance and strengthen its context and the campus as a whole;
 - 2.3.6.3 be in harmony with the immediate surroundings;
 - 2.3.6.4 facilitate accessibility and pedestrian circulation;
 - 2.3.6.5 accommodate service functions with minimal visual impact from pedestrian routes and open spaces, without causing safety conflicts;
 - 2.3.6.6 provide a more environmentally sustainable landscape that promotes conservation of natural resources and systems;
 - 2.3.6.7 provide an economically feasible and functional project, and,
 - 2.3.6.8 support greening and sustainability techniques.

2.4 PROGRAMMING AND CONCEPTS



- 2.4.1 The Programming shall commence with the execution of the Agreement and shall be complete with the Owner's approval and acceptance of the Programming Documents.
- 2.4.2 The Programming effort shall provide the following:
 - 2.4.2.1 develop and define the needs for the Project based upon the Owner's preliminary project program (if any) and other information obtained through the data gathering process, interviews, charrettes, surveys and operational parameters;
 - 2.4.2.2 review, develop, and document detailed requirements for the project, covering items such as project goals and objectives, design objectives, limitations, and criteria; gross area and space requirements; spatial relationships; needs and options for flexibility or expandability; identifying the need for special equipment and systems; site requirements; project schedule and budget requirements;
 - 2.4.2.3 space concepts and flow diagrams, functional relationships, access, circulation, and flow patterns within the building and on the site;
 - 2.4.2.4 existing facilities will require additional research to review existing conditions, assembling and reviewing information to identify and document areas to be involved in alterations, additions, repairs or demolition; and,
 - 2.4.2.5 define and develop programmatic and conceptual level documents consistent with the following:
 - 2.4.2.5.1 Architectural - services responding to the programming and project requirements and consisting of preparation of conceptual site and building diagrams for each level or floor, investigation of alternative approaches, key diagrammatic sections, typical diagrammatic elevations, preliminary selection/recommendation of building systems and materials, development of approximate dimensions, areas and volumes, and review of any existing project documentation;
 - 2.4.2.5.2 Structural - recommendations regarding structural materials and systems;
 - 2.4.2.5.3 Mechanical and Electrical - for mechanical design, consideration and recommendations regarding systems and equipment, development of conceptual design solutions for energy sources/conservation and general space requirements. For electrical design, consideration and recommendations regarding basic electrical systems and equipment, analysis and development of conceptual design solutions for energy sources/conservation, service distribution, and general space requirements;
 - 2.4.2.5.4 Civil - site planning analysis including layout of site features, building position, general topography, location of paving for walkways, driveways and parking. Also must include connections for building utilities such as water, sewer, gas/steam and power;
 - 2.4.2.5.5 Budget - develop the project budget in conjunction with the Owner and assist in the analysis of soft costs and establishment of a preliminary construction budget. Provide a conceptual level cost estimate of the master plan (if incorporated in this Agreement) concept designs; and,
 - 2.4.2.5.6 Scheduling/Phasing – develop the project schedule in conjunction with the Owner. Perform review and analysis of the project schedule and phasing plan(s) (if a phased project).
- 2.4.3 The Programming Document shall contain the following items:
 - 2.4.3.1 Executive Summary with Project Statement;
 - 2.4.3.2 Project Summary and Design Goals;
 - 2.4.3.3 Space Program;
 - 2.4.3.4 Planning and Design Criteria including, but not limited to, codes, zoning, clustering and layout criteria, building massing, blocking and stacking diagrams, space planning module, dimensional criteria, envelope interface, physical accessibility and ADA, style issues and constraints;
 - 2.4.3.5 Building Performance Criteria including, but not limited to, general notes and comments on: building envelope, structure, interior construction, hvac systems, plumbing systems, fire suppression systems, electrical systems, and information technology systems;
 - 2.4.3.6 Site Requirements including, but not limited to, preliminary building siting, site analysis, parking, traffic flow, grading and landscaping;
 - 2.4.3.7 Budget and cost of the work involving estimates of construction, design fees and all other identifiable costs; and,
 - 2.4.3.8 Schedules for funding, design, and construction.

- 2.4.4 For the purposes of Commissioning, the Architect/Engineer shall begin preparation of the Basis of Design Document as defined by ASHRAE describing the general scope of systems to be incorporated into the Project.
- 2.4.5 The Architect/Engineer shall provide **[number]** set(s) of Programming Documents including Estimate of Construction for review and approval to the Agency point of contact and two (2) sets to the Owner.

2.5 FUND RAISING AND DELIVERABLES



- 2.5.1 The Fund Raising Effort shall commence with the signing of the Agreement and shall be complete upon conclusion of the Owner's acceptance and approval of Fund Raising Deliverables.
- 2.5.2 The Architect/Engineer's assistance to the Owner for fund raising efforts includes: [enter description].
- 2.5.3 Fund Raising Deliverables shall include:
 - 2.5.3.1 Character Sketches - [number] perspectives;
 - 2.5.3.2 Presentation Boards - [number] perspectives;
 - 2.5.3.3 Descriptive Project Booklets - [number] copies;
 - 2.5.3.4 Project Brochures - [number] copies;
 - 2.5.3.5 A physical Presentation Model; and,
 - 2.5.3.6 3-D Computer Graphic Animation.
- 2.5.4 All computer presentation materials shall be able to be viewed by any user/viewer/presenter without the need to purchase or own any proprietary software. All web-based or disc-based presentation materials shall have all necessary software pre-loaded on the disc in order to operate any presentation materials.
- 2.5.5 The Architect/Engineer shall provide all Fund Raising Deliverables to the Agency point of contact.

2.6 EVALUATION OF THE BUDGET AND ESTIMATE OF CONSTRUCTION COST

- 2.6.1 When the Project Program requirements have been sufficiently identified, the Architect/Engineer shall prepare an Estimate of Construction Cost. This estimate may be based on current area, volume, similar conceptual or recent construction history estimating techniques. As the programming process progresses through to the end of the preparation of the Programming Documents, the Architect/Engineer shall update and refine the Estimate of Construction Cost. The Architect/Engineer shall advise the Owner of any adjustments to previous Estimates indicated by changes in Project requirements or general market conditions. If at any time the Architect/Engineer's Estimate of Construction Cost exceeds the Owner's budgeted construction cost, the Architect/Engineer shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget. The Owner shall cooperate with the Architect/Engineer in making such adjustments.
- 2.6.2 Evaluations of the Owner's budget for the Project, the Estimate of Construction Cost, and updated Estimates of Construction Cost prepared by the Architect/Engineer, are to represent the Architect/Engineer's best judgment as a design professional familiar with the construction industry. It is recognized, however, that neither the Architect/Engineer nor the Owner has control over the cost of labor, materials or equipment, the Contractor's methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, the Architect/Engineer cannot and does not warrant or present that bids or negotiated prices will not vary from the Owner's budget for the Project or from any Estimate of Construction Cost or evaluations prepared by the Architect/Engineer.
- 2.6.3 The Construction Cost is part of the Project Budget and shall be the total cost or, to the extent the Project is not completed, the estimated cost to the Owner of all elements of the Project programmed, designed, or specified by the Architect/Engineer. Estimates of Construction Cost shall include the cost at projected market rates of labor and materials and equipment designed, specified, selected or specially provided for by the Architect/Engineer, including the costs of management or supervision of construction or installation provided by a separate construction manager or contractor, plus a reasonable allowance for their overhead and profit. The Estimate of Construction Cost does not include "Soft" costs as defined in the Agreement.

2.7 SITE SERVICES



- 2.7.1 Access and Protection of Property. The Architect/Engineer shall contact the Agency for information regarding access to the site and shall take all reasonable precautions to prevent damage to property, visible and concealed, and shall reasonably restore the site to the condition existing prior to the Architect/Engineer's entry, including, but not limited to, repair of curbs, sidewalks, lawns and plantings unless otherwise agreed to with the Owner.

2.7.2 Site and Topographical Surveys. The Architect/Engineer shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site unless such surveys are specifically provided by the Owner. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark that is permanent and readily identifiable and incorporated into the Contract Documents.

2.7.2.1 Site Survey Requirements

- 2.7.2.1.1 Show boundary lines (if any), giving length and bearing (including reference of basis) on each straight line; interior angles; radius, point of tangency and length of curved lines. Where no monument exists, set permanent iron pin (monument) or other suitable permanent monument at property corners; drive pin into ground adequately to prevent movement, mark with wood stake; state on drawings whether corners were found or set and describe each;
- 2.7.2.1.2 Confirm or furnish a legal description which conforms to the Record Title Boundaries. Prior to making this survey, the Surveyor shall, insofar as possible, acquire data including, but not limited to, deeds, maps certificates or abstracts of title, section line and other boundary line locations in the vicinity;
- 2.7.2.1.3 Give area in square feet if less than one acre, in acres (to .001 acre) if over one acre;
- 2.7.2.1.4 Note identity, jurisdiction and width of adjoining streets and highways, width and type of pavement. Identify any landmarks;
- 2.7.2.1.5 Identify location of structures on the property and on adjacent property within 50 feet of the Project limits. Dimension perimeters in feet and inches to nearest ½ inch. State the character and number of stories. Dimension to property lines and other buildings. Vacant parcels shall be noted as VACANT;
- 2.7.2.1.6 Show encroachments, including cornices, belt courses, etc., either way across property lines;
- 2.7.2.1.7 Describe fences and walls, identify party walls and locate them with respect to property lines;
- 2.7.2.1.8 Show recorded or otherwise known easements and rights-of-way; state the owner of right of each;
- 2.7.2.1.9 Note possibilities of prescriptive rights-of-way and the nature of each;
- 2.7.2.1.10 Show individual lot lines and block numbers; show street numbers of buildings if available;
- 2.7.2.1.11 Show zoning of property; if more than one zone, show the extent of each. Show zoning of adjacent property and property across the street(s) or highway(s);
- 2.7.2.1.12 Give names of owners of adjacent property; and,
- 2.7.2.1.13 Reconcile or explain any discrepancies between the survey and the recorded legal description.

2.7.2.2 Topographical Survey Requirements:

- 2.7.2.2.1 Provide minimum of one permanent benchmark on site for each four acres; description and elevation to nearest .01';
- 2.7.2.2.2 Draw contours at 1 foot intervals;
- 2.7.2.2.3 Spot elevation at each intersection of a grid covering the property at sufficient spacing to assure reasonable accuracy in constructing contour lines;
- 2.7.2.2.4 Spot elevations at street intersections and at 20 foot intervals on curb, sidewalk and edge of paving, including far side of paving;
- 2.7.2.2.5 Plot location of structures, above and below ground, man-made (e.g., paved areas) and natural features; all finished floor elevations at each entrance of buildings on the property. Include invert elevations of utility tunnel floors and overhead slabs;
- 2.7.2.2.6 Location, size, depth and, where available, pressure of water and gas mains, central steam and other utilities including, but not limited to, buried tanks and septic fields serving, or on, the property;
- 2.7.2.2.7 Location of fire hydrants available to the property and the size of the main serving each;
- 2.7.2.2.8 Location and characteristics of power and communications systems above and below grade;
- 2.7.2.2.9 Location, size, depth and direction of flow of sanitary sewers, combination sewers, storm drains, culverts serving, or on the property; location of catch basins and manholes, and inverts of pipe at each;
- 2.7.2.2.10 Name of the operating authority of each utility;
- 2.7.2.2.11 Flood plain, flood level of streams or adjacent bodies of water and analysis of site for potential flooding;

- 2.7.2.2.12 Locations of test borings if ascertainable and the elevation of the top of the holes;
- 2.7.2.2.13 Trees of 1½ inch and over (caliper 3' above ground); locate within 1' tolerance and give species where identifiable; and,
- 2.7.2.2.14 Perimeter outline only of thickly wooded areas unless otherwise directed.
- 2.7.2.3 Accuracy Standards. Precision of the surveys shall be based on the Positional Accuracy Concept. The Architect/Engineer shall recommend positional accuracy limits and error of closure limits for the property being surveyed.
- 2.7.2.4 Drawing and File Requirements. The Architect/Engineer shall require the licensed Land Surveyor to sign and seal each drawing and certify to the best of the Surveyor's knowledge, information and belief all information thereon is true and accurately shown. Drawings and drawing files shall contain written scale, graphic scale, North arrow (oriented to the top of the sheet), legend of symbols, and abbreviations used on the drawing(s), and all dimensions and elevations in English and Metric units. Spot elevations on pavement and other hard surfaces shall be to the nearest .01', on other surfaces to the nearest .05'. State elevation datum on each drawing. Use National Vertical Geodetic Datum and give location of benchmark used.
- 2.7.2.5 Additional Requirements:
 - 2.7.2.5.1

2.8 GEOTECHNICAL SERVICES



- 2.8.1 Access and Protection of Property. The Architect/Engineer shall contact the Agency for information regarding access to the site and shall take all reasonable precautions to prevent damage to property, visible and concealed, and shall reasonably restore the site to the condition existing prior to the Architect/Engineer's entry, including, but not limited to, repair of curbs, sidewalks, lawns and plantings unless otherwise agreed to with the Owner.
- 2.8.2 Geotechnical Investigation and Reports. The Architect/Engineer shall furnish the services of a licensed geotechnical engineer. Services may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, soil corrosion/resistivity tests, including necessary operations for anticipating subsoil conditions, with reports and appropriate recommendations unless such services are specifically provided by the Owner.
 - 2.8.2.1 Reports and Drawing Requirements. The Architect/Engineer shall require the geotechnical engineer to sign and seal each report and/or drawing and certify to the best of the geotechnical engineer's knowledge, information, and belief that all information thereon is true and accurately shown. Drawings and drawing files shall contain written scale, graphic scale, North arrow (oriented to the top of the sheet), legend of symbols and abbreviations used on the drawing(s), and all dimensions and elevations in English units.
 - 2.8.2.2 Investigation.
 - 2.8.2.2.1 The geotechnical engineer shall perform borings and subsurface investigations in accordance with accepted geotechnical engineering practices and in the quantity and location as coordinated with the Architect/Engineer and Owner in order to determine the subsurface soil strata, obtain representative samples for laboratory analysis, investigate the in-situ soil conditions, and investigate the subsurface water conditions.
 - 2.8.2.2.2 All samples shall be classified in accordance with ASTM D-2488, "Standard Practice for Description and Identification of Soils."
 - 2.8.2.2.3 Testing shall be performed in accordance with:
 - 2.8.2.2.3.1 Standard Test Method for Penetration Test and Split Barrel Sampling of Soils, ASTM D-1586;
 - 2.8.2.2.3.2 Thin-Walled Tube Sampling of Soils, ASTM D-1587;
 - 2.8.2.2.3.3 Moisture Content Tests, ASTM D-2116;
 - 2.8.2.2.3.4 Atterberg Limits, ASTM D-4318;
 - 2.8.2.2.3.5 Sieve/Grain Size Analysis Tests, ASTM D-422 and C-136;
 - 2.8.2.2.3.6 Consolidation/Swell, ASTM D-2438 and D-4546;
 - 2.8.2.2.3.7 Shear Strength, ASTM D-2850, D-4767, and D-2166;
 - 2.8.2.2.3.8 California bearing ratio, ASTM D 1883;
 - 2.8.2.2.3.9 Proctor, ASTM D-698 and D-1557; and,
 - 2.8.2.2.3.10 Corrosion tests such as resistivity, pH, and sulfates.
 - 2.8.2.2.4 Percolation tests shall be performed in accordance with the Montana Department of Environmental Quality's currently accepted practices and procedures.
 - 2.8.2.2.5 Other methods of investigation may be used upon prior approval of the Architect/Engineer. Such methods include test pits, rotary borings, had

auger borings, subsurface strata delineation or other generally accepted geophysical methods.

2.8.2.3 Reports. Reports shall provide descriptive information of the scope of the investigation describing the tasks and analysis performed along with the following:

2.8.2.3.1 Sub-surface investigation. General description of the samples taken, locations, elevations, the testing methods performed, site geology, subsurface soils profiles, and groundwater observations.

2.8.2.3.2 Laboratory Investigations. General description of the examinations and classification of tests performed.

2.8.2.3.3 Design and Construction Recommendations. General description of the Project to be constructed with loading information obtained from the Architect/Engineer. The geotechnical engineer shall perform a historical search regarding any previous construction on the site. The Report shall provide design criteria and make recommendations for the performance of earthwork, foundations, slabs, pavement, flooring system, and all other geotechnical-related issues for the site and building based upon the loading information and the soil/geological conditions; seismic conditions and considerations; lateral earth pressures; and, site grading, drainage, and fill work; corrosion potential of buried metals and concretes; percolation rates; groundwater and surface water seepage; specification requirements for fill material, base course, concrete, materials testing, and other requirements as appropriate for the type of Project.

2.8.2.4 Additional Requirements:

2.8.2.4.1

2.9 LEED CRITERIA AND SUSTAINABLE PLANNING



2.9.1 As directed by the Owner, the Architect/Engineer shall define and develop conceptual level requirements for the project that include sustainable planning and design concepts, as defined by the U.S. Green Building Council's LEEDS Program, covering items such as:

2.9.1.1 building design analysis and building performance as it relates to energy use, sustainability concepts, and productivity of the interior environment;

2.9.1.2 energy use effectiveness including natural convection in HVAC, natural lighting and water use / recycling / integration;

2.9.1.3 development of integrated systems for environmentally responsible architecture;

2.9.1.4 potential application of green building concepts for LEED certification; and,

2.9.1.5 special equipment and systems for use of alternative energy and energy consumption modeling.

2.9.2 It is the Owner's intent that the Project be programmed to include sustainable architectural and engineering solutions, environmentally efficient materials, and shall include consideration of "state of the art" design solutions in all areas of the project design whether or not LEED certification is pursued.

2.9.3 Should the Owner desire to pursue formal LEED certification of the Project, the Architect/Engineer shall develop all necessary documentation for the level of certification sought by the Owner and shall assist with submission to the U.S. Green Building Council. The Owner and Architect/Engineer shall negotiate compensation for the formal certification effort commensurate with the level of certification being sought by the Owner.

3 PART 3

Articles without a check box form an integral part of this Agreement. Articles with a check box also form an integral part of this Agreement if "checked"; unchecked boxes represent that the associated Article(s) is/are not part of the Architect/Engineer's services.

3.1 PROJECT ADMINISTRATION AND MANAGEMENT (FOR PART 3)

3.1.1 The Architect/Engineer shall be responsible for managing all the Architect/Engineer's services and administration of the Project in accordance with this Agreement. The Architect/Engineer shall consult with the Owner, apply all applicable design criteria, attend Project meetings, maintain a Project contact list, communicate with members of the Project team, issue progress reports and meeting minutes, maintain the project schedule and budget.

3.1.2 The Architect/Engineer shall coordinate the services provided by the Architect/Engineer and the Architect/Engineer's consultants with those services provided by the Owner and the Owner's consultants.

- 3.1.3 Upon request of the Owner, the Architect/Engineer shall make presentations to explain the design of the Project to other interested parties as coordinated by the Owner.
- 3.1.4 The Architect/Engineer shall submit documents to the Owner at intervals appropriate to the design and Construction Contract Administration process for purposes of evaluation and approval by the Owner. The Architect/Engineer shall be entitled to rely on approvals received from the Owner in the further development of the design and for Construction Contract Administration.
- 3.1.5 The Architect/Engineer shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project. The Architect/Engineer shall specifically coordinate all building code issues and plan reviews with the permitting authority having jurisdiction.
- 3.1.6 The Architect/Engineer shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program, budget and aesthetics in developing the design for the Project.

3.2 EVALUATION OF THE BUDGET AND ESTIMATE OF CONSTRUCTION COST

- 3.2.1 The Architect/Engineer shall prepare Estimates of Construction Cost. These estimates may be based on current area, volume, similar conceptual or recent construction history estimating techniques during Schematic and Design Development but shall be based upon direct quantity take-offs with correlation to current market trends throughout the Construction Documents phase. As the design process progresses through the end of the preparation of the Contract Documents, the Architect/Engineer shall update and refine the Estimate of Construction Cost at each phase of design and as requested by the Owner. The Architect/Engineer shall advise the Owner of any adjustments to previous Estimates indicated by changes in Project requirements or general market conditions. If at any time the Architect/Engineer's Estimate of Construction Cost exceeds the Owner's Project Budget, the Architect/Engineer shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget, and the Owner shall cooperate with the Architect/Engineer in making such adjustments.
- 3.2.2 Evaluations of the Owner's budget for the Project, the Estimate of Construction Cost and updated Estimates of Construction Cost prepared by the Architect/Engineer are to represent the Architect/Engineer's best judgment as a design professional familiar with the construction industry. It is recognized, however, that neither the Architect/Engineer nor the Owner has control over the cost of labor, materials or equipment, over the Contractor's methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, the Architect/Engineer cannot and does not warrant or present that bids or negotiated prices will not vary from the Owner's budget for the Project or from any Estimate of Construction Cost or evaluation prepared or agreed to by the Architect/Engineer.
- 3.2.3 The Construction Cost is part of the Project Budget and shall be the total cost or, to the extent the Project is not completed, the estimated cost to the Owner of all elements of the Project designed or specified by the Architect/Engineer. Estimates of Construction Cost shall include the cost at projected market rates of labor and materials and equipment designed, specified, selected or specially provided for by the Architect/Engineer, including the costs of management or supervision of construction or installation provided by a separate construction manager or contractor, plus a reasonable allowance for their overhead and profit. The Estimate of Construction Cost does not include "Soft" costs as defined in the Agreement.
- 3.2.4 If bidding or negotiations have not commenced within ninety (90) days after the Architect/Engineer submits the final, completed Construction Documents to the Owner, the Estimate of Construction Cost shall be adjusted to reflect changes in the general level of prices in the construction industry.
- 3.2.5 Once the fixed limit of Construction Cost is established by the Owner in conjunction with the Project Program and the design, the Architect/Engineer shall determine, with the interaction of the Owner, what materials, equipment, components, systems, and types of construction are to be included in the Plans and Specifications, and to make reasonable adjustments in the Project Program and design to bring it within the fixed limit. The Architect/Engineer shall also include bid Alternates, with the interaction of the Owner, to the Base Bid to enable the bids to be within the fixed limit of Construction Cost.
- 3.2.6 If the final Estimate of Construction Cost provided at the end of Construction Documents exceeds the budgeted fixed limit of Construction Cost (including Alternates and bidding contingencies), the Owner may:
 - 3.2.6.1 Give written approval of an increase in the fixed limit of Construction Cost; or,
 - 3.2.6.2 Confer with the Architect/Engineer in revising the Project to reduce the final Estimate of Construction Cost. Such revisions shall be performed without additional compensation to the Architect/Engineer.
- 3.2.7 If the lowest responsible bid or lowest negotiated proposal exceeds the fixed limit of Construction Cost (including any Alternates and bidding contingencies), the Owner may:
 - 3.2.7.1 Give written approval of an increase in the fixed limit of Construction Cost;

- 3.2.7.2 Negotiate deductive changes, not to exceed 7% of the total cost of the project with the lowest responsible bidder. Such negotiated changes shall be at the expense of the Architect/Engineer and shall constitute his sole responsibility to the Owner in this regard. Negotiated deductive changes shall be documented by the Architect/Engineer through either re-design of the Project or in a manner similar to bid addenda at the discretion of the Owner, and then formally priced and signed by the lowest responsible bidder; or,
- 3.2.7.3 Confer with the Architect/Engineer in revising the Project to reduce the final Estimate of Construction Cost and rebid the Project. Such revisions shall be at the expense of the Architect/Engineer and shall constitute his sole responsibility to the Owner in this regard.

3.3 DESIGN SERVICES

- 3.3.1 The Architect/Engineer's design services consist of the phases described herein and are inclusive of the necessary structural, civil, mechanical, fire protection, electrical engineering, information technology, and other services as required for a complete and integrated design.

3.3.2 SCHEMATIC DESIGN



- 3.3.2.1 The Schematic Design Phase shall commence with the signing of this Agreement or upon the Owner's approval and acceptance of Part 2 Services if included in the Agreement, and shall be complete with the Owner's approval of the Schematic Design Documents.
- 3.3.2.2 The Architect/Engineer shall provide Schematic Design Documents based on the Programming effort (or Owner's Preliminary Project Program if no Programming services are provided), Project Schedule, and Project Budget including the budgeted Construction Cost. Schematic Design Documents shall establish the design of the Project illustrating the scale and relationship of the Project components. The Schematic Design Documents shall include an initial site plan and preliminary building plans, sections and elevations. As coordinated between the Architect/Engineer and the Owner, the Schematic Design Documents may include study models, perspective sketches, electronic modeling or combinations of these media. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.
- 3.3.2.3 The Schematic Design Phase effort shall provide the following:
 - 3.3.2.3.1 Define the needs for the project based upon the Program and subsequent changes to the concept and other data gathered from the Owner;
 - 3.3.2.3.2 Define detailed requirements for the project, covering items such as design objectives, limitations, and criteria; gross area and space requirements; spatial relationships; needs and options for flexibility or expandability; special equipment and systems; site requirements; project schedule and budget requirements;
 - 3.3.2.3.3 Define space concepts and flow diagrams, functional relationships, access, circulation, and flow patterns within the building and on the site; and,
 - 3.3.2.3.4 Investigation and define data concerning existing conditions, assembling and reviewing information to identify and document areas to be involved in alterations, additions, repairs or demolition.
- 3.3.2.4 The Schematic Design Documents and Services shall at a minimum consist of the following:
 - 3.3.2.4.1 Architectural Design - Services responding to the programming and project requirements and consisting of preparation of a site plan and building plans for each level or floor, key sections, all elevations, preliminary selection of building systems and materials, development of approximate dimensions, areas and volumes, and review of project documents presently consisting of the project program and budget and incorporation of site soil investigation and surveys;
 - 3.3.2.4.2 Structural Design - Recommendations regarding structural materials and systems, selection of the foundation system, outline structural systems plan, analysis and development of conceptual design solutions;
 - 3.3.2.4.3 Mechanical Design - Consideration and recommendations regarding materials, systems and equipment, development of design solutions for energy sources/conservation, heating, ventilating and air conditioning, plumbing, fire protection and general space requirements;
 - 3.3.2.4.4 Electrical Design - consideration and recommendations regarding basic electrical materials, systems and equipment, analysis and development of design solutions for power service, distribution, lighting, information technology, communication, fire detection, alarms and general space requirements;
 - 3.3.2.4.5 Commissioning Assistance - The mechanical and electrical design is to be summarized to provide a comprehensive description of the operation of the mechanical and electrical systems in the building with specific reference to meeting the requirements included in the Design Intent Document. This

- document is to be revised as necessary throughout the design and the original and all revisions are to be submitted to, and approved by, the Owner;
- 3.3.2.4.6 Civil Design - Site planning analysis including layout of site features, building position, preliminary grading, location of paving for walkways, driveways and parking. Also includes normal connections for building utilities such as water, sewer, gas/steam and power;
 - 3.3.2.4.7 Budget - Review the project budget and assist in the analysis of "soft" costs and establishment of a budget Construction Cost;
 - 3.3.2.4.8 Specifications - Outline specifications necessary to indicate the general scope of services that will form the basis of the specifications for the construction documents.
 - 3.3.2.4.9 Scheduling/Phasing - Review and analysis of the project schedule and phasing plan developed along with the project program.
- 3.3.2.5 If Programming services are included in this Agreement, the Architect/Engineer shall provide revised and updated information for incorporation into the Programming Document. If Programming services are not included in this Agreement, the final Schematic Documents shall contain a summary of the following as determined in conjunction with the Owner as part of the Schematic Design process:
- 3.3.2.5.1 Executive Summary with Project Statement;
 - 3.3.2.5.2 Project Summary and Design Goals;
 - 3.3.2.5.3 Planning and Design Criteria;
 - 3.3.2.5.4 Building Performance Criteria;
 - 3.3.2.5.5 Site Requirements;
 - 3.3.2.5.6 Project Budget; and,
 - 3.3.2.5.7 Project Schedule.
- 3.3.2.6 For the purposes of Commissioning, the Architect/Engineer shall provide a Design Intent Document for review and approval by the Owner, for the commissioning of the project which shall include the basis of the design in a room-by-room itemization of mechanical and electrical requirements as described in the Programming Document with the following information:
- 3.3.2.6.1 Temperature requirements;
 - 3.3.2.6.2 Humidity requirements (if special needs are identified);
 - 3.3.2.6.3 Exhaust requirements (e.g. fume hoods);
 - 3.3.2.6.4 Pressurization requirements;
 - 3.3.2.6.5 Maximum permissible sound level;
 - 3.3.2.6.6 Maximum occupancy;
 - 3.3.2.6.7 Schedule of occupancy;
 - 3.3.2.6.8 Number of computers or specialized equipment;
 - 3.3.2.6.9 Special power quality;
 - 3.3.2.6.10 Light levels; and,
 - 3.3.2.6.11 Special lighting systems or levels.
- 3.3.2.7 The Architect/Engineer shall provide **[number]** set(s) of Schematic Design Documents including the Estimate of Construction for review and approval to the Agency and two (2) sets to the Owner.
- 3.3.3 **DESIGN DEVELOPMENT (OR PRELIMINARY DESIGN IF SD/DD ARE COMBINED)** ☐
- 3.3.3.1 The Design Development Phase shall commence with the Owner's approval of the Schematic Design Documents and shall be complete with the Owner's approval of the Design Development Documents.
 - 3.3.3.2 The Architect/Engineer and Owner may agree to have the Schematic Design and Design Development Phases combined into a single phase. This combination shall be the Preliminary Design Phase and shall consist primarily of services as identified within this Design Development Phase.
 - 3.3.3.3 The Architect/Engineer shall prepare, for approval by the Owner, Design Development Documents consisting of drawings, sketches, specifications, Estimate of Construction Cost, and similar documents necessary to fix and describe the size and character of the entire Project as to the architectural, structural, mechanical, electrical systems and other elements as defined in the Project Scope.
 - 3.3.3.4 Design Development Documents and Services shall at a minimum consist of the following:
 - 3.3.3.4.1 Architectural Design - Services consisting of the continued development and expansion of the schematic design documents (or preliminary project program of the Owner if Preliminary Design) in order to proceed with establishment of the final design documents. Documents shall consist of the final scope, relationships, forms, size and appearance. Building plans, sections and elevations, selection of building systems and materials, development of dimensions, areas and volumes are also included;
 - 3.3.3.4.2 Structural Design - Development of specific structural materials and systems, analysis and development of design solutions. Basic structural system and

- dimensions, design criteria, foundation design criteria, sizing of structural components and clearances;
- 3.3.3.4.3 Mechanical Design - Development of specific mechanical materials and systems, analysis and development of design solutions. Basic mechanical system and dimensions, design criteria for energy sources/conservation, heating, ventilating and air conditioning, plumbing, fire protection, vibration and acoustical control, visual impacts, equipment layouts, sizes and weights of major components, chases and specific space requirements;
- 3.3.3.4.4 Electrical Design - Development of specific electrical materials and systems, analysis and development of design solutions. Basic electrical system and dimensions, design criteria for energy sources/conservation, power service, distribution, lighting, information technology, communication, fire detection, alarms, chases, equipment layouts and clearances and specific space requirements;
- 3.3.3.4.5 Commissioning - Coordinate with and support the commissioning process;
- 3.3.3.4.6 Civil Design - Basic civil engineering features regarding building position, preliminary grading, location of paving for walkways, driveways, parking, all utilities, easements, boundary conditions, property limits;
- 3.3.3.4.7 Project Budget - Maintain the design development phase in accordance within the established budget Construction Cost, continually review the project budget to coordinate appropriate design factors and limitations;
- 3.3.3.4.8 Specifications - Development and coordination of outline specifications necessary to delineate the appropriate functions and minimum quality of the project; and,
- 3.3.3.4.9 Scheduling - Develop and maintain a CPM or bar chart project schedule of all activities to include investigations, data gathering, design phases, reviews, advertising, bidding, contract award, construction, construction phasing, punch list and project completion. Perform reviews and revisions of schedule indicating all milestones and anticipated impacts upon delivery of the project based upon issues and factors discovered during the design development phase.
- 3.3.3.5 The Architect/Engineer shall provide **[number]** set(s) of Design Development Documents including the Estimate of Construction for review and approval to the Agency and two (2) sets to the Owner.

3.3.4 CONSTRUCTION DOCUMENTS ☐

- 3.3.4.1 The Construction Documents Phase shall commence with the Owner's approval of the Design Development (or Preliminary Design) Documents and shall be complete with the Owner's approval of the Construction Documents.
- 3.3.4.2 The Architect/Engineer shall provide Construction Documents based on the approved Design Development (or Preliminary Design) Documents and updated Construction Cost. The Construction Documents shall set forth in detail the requirements for construction of the Project. The Construction Documents shall include Drawings and Specifications that establish in detail the quality levels of materials and systems required for the Project.
- 3.3.4.3 During the development of the Construction Documents, the Architect/Engineer shall review and assist the Owner in the development and preparation of: (1) bidding and procurement information; (2) bidding or proposal forms; and, (2) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect also shall compile the Project Manual (Specifications) that includes all of the Owner's "boiler plate" information and the Owner's Conditions of the Contract for Construction and Specifications and may include bidding requirements and sample forms.
- 3.3.4.4 The Architect/Engineer shall provide those services necessary to prepare final construction documents consisting of specifications, drawings and other documents of sufficient detail to fix and describe the final size and character of the project for approval by the Owner.
- 3.3.4.5 Construction Document Services consists of the following:
 - 3.3.4.5.1 General – Review and checking of Design Development (or Preliminary Design) Documents to ensure all Owner criteria is incorporated. The Architect/Engineer shall perform continuous review of the design and design process to ensure the highest level of quality control. 95% complete documents relate to the total effort required by the Architect/Engineer and all consultants to produce construction documents that are ready for bidding. The effort to perform final coordination checking, final corrections, incorporation of comments, and inclusion of the Owner's boiler plate constitutes the remaining 5% of the total effort necessary to produce the Contract Documents. Drawing index contains all drawings and all sheet titles agree. All alternates have been identified and properly delineated. All details are referenced. All details are complete with dimensions, notations and materials. All details (A, S, M, P, E, C, etc.) are specific to the project and have been edited to reflect the actual project conditions.

- 3.3.4.5.2 Architectural Design Services - Continued development and expansion of the design in order to proceed with and result in the final design documents. Documents shall consist of the final scope, relationships, forms, size and appearance. Complete floor plans, sections and elevations, selection of building systems and materials, development of dimensions, areas and volumes are to be included. Reflected ceiling plans must contain all light fixtures and HVAC grilles, registers and diffusers. Door and room finish schedules must be complete. Floor plans, elevations, and sections are completely dimensioned;
- 3.3.4.5.3 Structural Design - Continued development of specific structural materials and systems, analysis and development of design solutions. Complete and detailed structural system and dimensions, design, foundation, sizing of structural components and clearances, details, elevations plans and specifications. All details are specific to the project and ready for fabrication drawing development. All plans have been coordinated and verified against architectural and mechanical drawings;
- 3.3.4.5.4 Mechanical Design - Continued development of utilities, specific mechanical materials and systems, analysis and development of design solutions. Complete and detailed mechanical system and dimensions, heating, ventilating and air conditioning, plumbing, fire protection, vibration and acoustical control, equipment details, sizes, elevations, schedules, plans and specifications. Coordination of utilities leaving the building with locations shown on civil plans;
- 3.3.4.5.5 Electrical Design - Continued development of specific data systems, electrical materials and systems, analysis and development of design solutions. Complete and detailed electrical system and dimensions, power service, distribution, lighting, information technology, communication, fire detection, alarms, chases, equipment layouts, circuits, panel board schedules, plans and specifications;
- 3.3.4.5.6 Civil Design – Incorporate completed site survey and geotechnical analysis including layout of the entire site. Complete and detailed civil design regarding building location, final grading, location of paving for walkways, driveways, parking, all utilities, easements, boundary conditions, property limits, plans and specifications. All benchmark information, building corners, essential topographical information has been included;
- 3.3.4.5.7 Budget - Ensure the design is in accordance with the established budget Construction Cost. Continually review the project budget to coordinate appropriate design factors and limitations;
- 3.3.4.5.8 Specifications - Complete development and coordination of all specifications necessary to describe and detail the entire project and to set the level of quality acceptable to the Owner. All Division 1 items pertain to the specific project and have been edited for completeness. Index contains all sections in the body of specifications. All specification sections apply to the specific project;
- 3.3.4.5.9 Scheduling - Maintain the established project schedule. Perform reviews and revisions of the schedule indicating all milestones and anticipated impacts upon delivery of the project based upon issues and factors discovered during the design;
- 3.3.4.5.10 Coordination Review – The Owner may choose to have the documents reviewed through an independent third-party. This does not relieve the Architect from the responsibility to provide the Owner with a fully-coordinated set of construction documents;
- 3.3.4.5.11 Coordinate with the commissioning authority as required to incorporate the commissioning specifications into the Project Manual (Specifications).
- 3.3.4.6 The Architect/Engineer shall assist the Owner in filing the required documents for the approval of governmental authorities having interest in the Project. The Owner may request the Architect/Engineer to pay the plan review fee to the building code jurisdiction. The Owner shall then compensate the Architect/Engineer for the plan review fee through an addendum or as a supplemental service.
- 3.3.4.7 The Architect/Engineer shall request the “Boiler Plate” and essential bidding information from the Owner upon submission of the 95% Plans and Specifications for final review by the Owner. The Architect/Engineer shall review and coordinate the Division One specifications with the General Conditions of the Contract for Construction.
- 3.3.4.8 Prior to bidding, the Architect/Engineer shall provide **[number]** set(s) of Construction Documents including the Estimate of Construction for review and approval to the Agency point of contact and two (2) sets to the Owner. This review shall constitute the 95% submission of the design effort where the remaining 5% consists of incorporation of final review comments and the Owner’s “boiler plate” information.
- 3.3.4.9 The Architect/Engineer shall incorporate code review comments and make all corrections, additions, or deletions to the Plans and Specifications prior to distribution for bidding purposes, without the use of addenda, unless approved by the Owner.
- 3.3.4.10 The total Construction Documents Phase shall constitute 100% of the design effort inclusive of any responses and alterations due to comments received upon review from the Owner, building codes officials, user groups or other interested third parties.

3.4 **BIDDING SERVICES**



- 3.4.1 The Bidding Phase shall commence with the incorporation of final review comments and the Owner's approval of the Plans and Specifications and the final Estimate of Construction cost and shall be complete with the issuance of the Notice to Proceed of the Construction Contract.
- 3.4.2 The Architect/Engineer shall provide **[number]** set(s) of Construction Documents for bidding purposes, one (1) set to the Agency, and one (1) set to the Owner. The Architect/Engineer shall procure and administer the reproduction of Bidding Documents and distribution to prospective bidders. If the number of sets for bidding purposes is not established in this Agreement, the Owner shall reimburse the Architect/Engineer for the direct costs of reproduction and distribution for all sets determined to be necessary for bidding. However, the Architect/Engineer and Owner shall agree on the number sets necessary at the time of bidding and the Architect/Engineer shall not exceed that number without approval of the Owner.
- 3.4.3 The Architect/Engineer, following the Owner's approval of the Plans and Specifications and the final Estimate of Construction Cost, shall assist the Owner in obtaining bids and in awarding the Construction Contract(s). Any interpretation of the Plans and Specifications by the Architect/Engineer will be issued by addenda to all plan holders. The Architect/Engineer will not issue any addenda within seven (7) calendar days of the bid opening without the permission of the Owner.
- 3.4.4 The Architect/Engineer shall arrange, attend, and conduct a pre-bid walk-through for the project unless the Owner specifically requests no walk-through. The Architect/Engineer shall prepare and submit to the Owner an agenda for the pre-bid walk-through. As a minimum, the agenda shall thoroughly address the Instruction to Bidders, Conditions of the Contract for Construction, site conditions, construction staging, permits, general scope of the Project, and all unique situations. The Architect/Engineer shall require the attendance and participation of any consultants when the cost, size and/or complexity of the Project in the opinion of the Owner necessitate their attendance.
- 3.4.5 The Architect/Engineer shall provide bidding services to include the following:
- 3.4.5.1 Organizing, coordinating, publishing, handling and distribution of all bidding documents including addenda and receipt and return of deposits;
 - 3.4.5.2 Assist the Owner in obtaining either competitive bids or negotiated proposals and maintaining the plan holders' list, assist in contacting and informing prospective bidders;
 - 3.4.5.3 Coordination and responses between the disciplines for all questions, clarifications, and addenda;
 - 3.4.5.4 Continue to coordinate with, and support, the commissioning process. The commissioning authority (CxA) may make a presentation during the pre-bid walkthrough to explain the commissioning process to all interested parties;
 - 3.4.5.5 Addenda - Preparation and distribution as may be required including any and all supplementary drawings, specifications, instructions and notices of changes;
 - 3.4.5.6 Budget - Remain aware of bidding climate and perform analysis of possible bid results in comparison to the project budget if market conditions alter from the final Estimate of Construction Cost or if errors/omissions are discovered in the final Estimate;
 - 3.4.5.7 Substitutions - Consideration, analysis, comparisons and recommendations relative to requested substitutions proposed by bidders;
 - 3.4.5.8 Bid Evaluation - Perform validation of the bids received and provide recommendations regarding the award of contracts as requested by the Owner;
 - 3.4.5.9 Coordinate and conduct negotiations in cooperation with the Owner and the Contractor in the event that the bids received are over the project budget but within the statutory 7% deductive negotiating range should the Owner choose this option. If negotiations are successful, develop all documentation, drawings, drawing revisions, specifications, changes, and alterations including all related pricing in a manner similar to an addendum for formal pricing and signature by the contractor; and,
 - 3.4.5.10 Redesign - Perform redesign in coordination with the Owner and publication of construction documents for re-bidding or after negotiations if the project is not awardable within the Owner's project budget.

3.5 **CONSTRUCTION CONTRACT ADMINISTRATION SERVICES**



- 3.5.1 The Construction Contract Administration Phase shall commence with the issuance of the Notice to Proceed of the Construction Contract and shall be complete when the Contractor has completed the corrections from the warranty inspection.
- 3.5.2 The Architect/Engineer shall provide administration of the Construction Contract as set forth in this Agreement inclusive of the General Conditions of the Contract for Construction. The

Architect/Engineer shall provide those services necessary to perform Construction Contract Administration to deliver a quality Project for the Owner which shall be inclusive of the following:

- 3.5.2.1 Construction contract administration involves all aspects of consultation, communication, progress reports, observations, meetings and functions necessary to maintain the project quality, budget, schedule and coordination;
- 3.5.2.2 Upon issuance of the Notice To Proceed from the Owner to the Contractor, coordinate and conduct a pre-construction conference with the Owner, Agency, and the successful contractor and appropriate subcontractors. Describe the overall project administration, all Division 1 requirements, general scope of the project, Agency issues and concerns to be met by the Contractor during construction;
- 3.5.2.3 Continue to coordinate with, and support, the commissioning process. The commissioning authority (CxA) may make a presentation during the pre-construction conference to explain the commissioning process to all interested parties. Direct questions regarding commissioning to the CxA. One (1) copy of approved submittals related to the CxA's efforts will be routed to the CxA for use in developing inspections and tests. Presence of the CxA on the job does not diminish the Architect/Engineer's responsibilities;
- 3.5.2.4 Coordination - Services between the architectural work and all disciplines involved in the design of the project;
- 3.5.2.5 Documents - Maintain sufficient sets of construction documents including all requests for information, requests for clarification, change orders, addenda, pay requests, shop drawings, submittals, etc. necessary to delivery a quality project within budget and on time. Services consist of preparation, reproduction, and distribution of all clarification/information/change order documents in response to the Contractor or the Owner. Documents shall describe in sufficient detail, all work to be added, deleted, modified, review of proposals, review recommended changes for impacts on substantial completion date;
- 3.5.2.6 Shop Drawings and Submittals - Perform review and comparison of all drawings and submissions by the Contractor for conformance to the construction documents. Provide appropriate actions in a timely fashion in order to inform the Contractor regarding the shop drawings and submittals but in no instance shall responses or actions be longer than fourteen (14) calendar days:
 - 3.5.2.6.1 Review and approve or take appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, checking for conformance with information given and the design intent expressed in the Contract Documents. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect/Engineer's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect/Engineer, of any construction means, methods, techniques, sequences or procedures. The Architect/Engineer's approval of a specific item shall not indicate approval of an assembly of which the item is a component;
 - 3.5.2.6.2 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Architect/Engineer shall specify appropriate performance and design criteria that such services must satisfy. Shop Drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor shall bear such professional's written approval when submitted to the Architect/Engineer. The Architect/Engineer shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals; and,
 - 3.5.2.6.3 The costs and expenses to the Architect/Engineer of more that one (1) review of each Shop Drawing, Product Data item, sample and submittals of the Contractor may be billed by the Architect/Engineer directly to the Contractor. The Owner shall not be liable to the Architect/Engineer for multiple reviews.
- 3.5.2.7 Representation - Serve as the representative of the Owner throughout the duration of the project, protecting the Owner's interest in obtaining delivery of the project in accordance with the Construction Documents. The Architect/Engineer shall be the representative of the Owner throughout the duration of this Contract and as such shall advise and consult with the Owner. The Architect/Engineer shall have authority to act on behalf of the Owner to the extent provided in the General Conditions of the Construction Contract unless otherwise modified in writing;
- 3.5.2.8 Schedules - Monitor the Contractor's progress relative to established schedules and make status reports accordingly. Compare the Contractor's schedule to current pay requests for accuracy and stage of completion. The Architect/Engineer shall take no action concerning

the Contractor's schedule which may be interpreted as an approval or endorsement. However, the Architect/Engineer shall provide comments, concerns, inaccuracies, conflicts, etc. to the Contractor;

- 3.5.2.9 Pay Requests - Review and take appropriate action on all pay requests with regard to the Contractor's Schedule of Values, Progress Schedule, stored materials and stage of construction observed. Provide recommendations to the Owner with regard to payment based on observations at the site and the Contractor's Form 101, Periodic Estimate for Partial Payment request, the Architect/Engineer shall determine the amount owing to the Contractor and shall act upon the Contractor's Periodic Estimate for Partial Payment within seven (7) days of receipt. Certification of the Contractor's Form 101 shall constitute a representation by the Architect/Engineer to the Owner that the work has progressed to the point indicated; that to the best of the Architect/Engineer's knowledge, information and belief, the quality of the work is in accordance with the Plans and Specifications and that the Contractor is entitled to payment in the amount certified. If in the Architect/Engineer's opinion the Contractor is not entitled to the amount indicated on Form 101, he shall evaluate what percentage is due and revise the form accordingly and forward it to the Owner or return the Periodic Estimate for Partial Payment to the Contractor for revision. The Architect/Engineer shall send the Contractor a copy of any revised pay request forwarded to the Owner;
- 3.5.2.10 Change Orders - Prepare, reproduce, and distribute change orders for signature. Perform estimates of cost, negotiate price, and determine impacts upon the Contractor and the date for project completion;
- 3.5.2.10.1 The Architect/Engineer shall comprehensively complete the areas of "Justification for Change," "Justification for Cost Adjustment," and the "Justification for Schedule Adjustment" on the Change Order.
- 3.5.2.10.2 It is the Architect/Engineer's responsibility to review Change Order pricing and time extension requests for their appropriateness and to make recommendations to the Owner.
- 3.5.2.10.3 The Architect/Engineer may authorize minor changes in the Work not involving an adjustment in Contract Sum or an extension of the Contract Time which are consistent with the intent of the Contract Documents. If necessary, the Architect/Engineer shall prepare, reproduce and distribute Drawings and Specifications to describe Work to be added, deleted or modified.
- 3.5.2.10.4 The Architect/Engineer shall not order or direct any changes in the Work without the approval of the Owner that involve adjustment of the Contract Sum or Contract Time.
- 3.5.2.11 Construction Change Directives - Prepare, reproduce and distribute construction change directives for those items where time is critical and/or a reasonable price cannot be negotiated with the Contractor. If the Contractor and Owner cannot agree on price and/or for the change but the Owner directs that it be performed, price and/or time will be negotiated at a later date;
- 3.5.2.12 The Architect/Engineer shall visit the project site a minimum of **[enter monthly, bi-weekly, or quantity]** and as appropriate to the stage of construction:
- 3.5.2.12.1 to become generally familiar with and to keep the Owner informed about the progress and quality of the portion of the Work completed;
- 3.5.2.12.2 to endeavor to guard the Owner against defects and deficiencies in the Work; and,
- 3.5.2.12.3 to determine in general if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents.
- 3.5.2.13 Meetings - The Architect/Engineer shall conduct job meetings as part of project site visits with the Contractor, Owner, and Agency. The Architect/Engineer shall take minutes of the meeting and distribute typewritten copies to all parties attending the meeting within five (5) calendar days. The Architect/Engineer shall furnish the Owner with written field reports within five (5) calendar days of a project site visit. Any representative of the Architect/Engineer sent to the Project site shall be subject to the Owner's approval;
- 3.5.2.14 Field Observations - Services consisting of site visits at intervals appropriate to the stage of construction and/or as otherwise generally agreed upon in order to become familiar with the overall progress and quality of the work in accordance with the Construction Documents. The Architect/Engineer shall maintain a photographic log of the progress of the work and shall prepare and distribute field reports along with meeting minutes. The Architect/Engineer shall report to the Owner known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor;
- 3.5.2.15 Requests For Information (RFI) – The Architect/Engineer shall investigate and respond to Contractor requests for information in a timely fashion and in no instance in less than seven (7) calendar days. Should an RFI require additional time, the Architect/Engineer shall inform the Owner and Contractor of such within the seven (7) day period. The

Architect/Engineer's costs for investigating and responding to the Contractor's requests for information where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation may be billed by the Architect/Engineer to the Contractor. The Owner shall not be liable to the Architect/Engineer for the Contractor's failure to carefully study and compare the Contract Documents or if the Contractor should use the request for information process to seek extensions of the Contract for Construction, compensation, or hinder the Work in any manner;

- 3.5.2.16 Cost Accounting - Maintain records of the Project Budget and all impacts thereupon which include, but are not limited to, testing services, incidental impacts, potential claims and all changes; and,
- 3.5.2.17 Project Closeout:
 - 3.5.2.17.1 Services to be initiated upon notice from the Contractor that the work is substantially complete, in accordance with the Construction Documents, to permit beneficial occupancy or utilization, and consisting of a detailed inspection for conformity of the Work, compilation of a punch list, inspection of punch list items as completed by the Contractor, issuance of certificate of substantial completion, final inspections, review and approval of operations and maintenance manuals, receipt and transmittal of warranties, affidavits, lien waivers, permits and issuance of final certificate for payment.
 - 3.5.2.17.1.1 The costs and expenses to the Architect/Engineer of more than one (1) substantial completion and one (1) final acceptance inspection may be billed by the Architect/Engineer directly to the Contractor. The Owner shall not be liable to the Architect/Engineer for multiple inspections to validate Substantial Completion or Final Acceptance; and,
 - 3.5.2.17.1.2 The Architect/Engineer shall endeavor to have the Contractor complete all punch list items within thirty (30) calendar days of issuing Substantial Completion. The Architect/Engineer shall conduct inspections as part of his contracted site visits to determine Substantial Completion and Final Acceptance. The Architect/Engineer shall not authorize Substantial Completion or Final Completion without the approval of the Owner. Final payment shall not be approved by the Architect/Engineer prior to receipt and approval of all closeout items and consent of the Owner;
 - 3.5.2.17.2 Record Documents – the Architect/Engineer shall furnish the Owner two (2) sets of final, reproducible as-built Record Drawings on mylar media that have incorporated changes made during the construction process which reflect the as-built conditions. The Architect/Engineer shall also furnish the Owner with two (2) full sets of Record Drawings and Project Manuals (Specifications) in AutoCAD electronic media format (both .dwg and .plt files) on compact discs labeled with the Project name and the Owner's project number. One (1) set of the mylar drawings and one (1) set of the discs shall be sent to the Agency. All items shall be provided not less than thirty (30) calendar days after the date of Final Acceptance;
 - 3.5.2.17.3 O&M Manuals - Processing, reviewing and taking appropriate action on Operations and Maintenance Manuals provided by the Contractor. Approved O&M Manuals are to be provided to the Agency;
 - 3.5.2.17.4 The Architect/Engineer shall receive from the Contractor and forward to the Owner:
 - 3.5.2.17.4.1 consent of surety or sureties to reduction in or partial release of retainage or the making of final payment; and,
 - 3.5.2.17.4.2 affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens.
 - 3.5.2.17.5 Commissioning Report - The CxA will prepare the commissioning report for submittal to the Owner, Architect/Engineer, Contractor and the agency. The Architect/Engineer shall respond to issues in the commissioning report; and,
 - 3.5.2.17.6 Warranty Period - Investigate contractual and construction problems which arise during the warranty period. Perform inspection of the project, document warranty problems, and assist the Owner in having the Contractor provide corrective action.
 - 3.5.2.17.6.1 The Architect/Engineer shall conduct a warranty inspection within thirty (30) calendar days prior to the expiration of the

warranty period to determine if any defects in the work exist. The Architect/Engineer shall notify the Owner, both verbally and in writing of defects, and whether or not the defective work is covered by the warranty. All warranty work or repairs shall be under the direction of the Architect/Engineer. The Architect/Engineer shall notify the Owner of defective work and shall then, in conjunction with the Owner, notify the Contractor in accordance with the General Conditions of the Construction Contract.

3.5.2.17.6.2 The warranty period commences upon substantial completion and continues for a period of one year from the date of Final Acceptance as defined in the General Conditions of the Contract for Construction. Unless noted otherwise, the date of Final Acceptance shall be the date of the Architect/Engineer's approval of the final pay request.

3.5.3 The Architect/Engineer shall be the interpreter of the requirements of the Contract Documents. All interpretations, responses to requests for information, and decisions concerning the Contract Documents shall be in writing and issued to the Contractor and Owner by the Architect/Engineer. The Architect/Engineer shall not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect/Engineer shall be responsible for the Architect/Engineer's negligent acts, errors, or omissions, but shall not have control over or charge of and shall not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or of any other persons or entities performing portions of the Work.

3.5.4 The Architect/Engineer shall have authority to reject work that does not conform to the Contract Documents. Whenever the Architect/Engineer considers it necessary or advisable, the Architect/Engineer will have authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect/Engineer to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work. The Architect/Engineer shall advise the Owner of any and all rejected work and whether or not it may be necessary to stop work. The Owner will issue any Stop Work Orders to the Contractor. The Architect/Engineer shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

3.5.5 A change in services or fees will be negotiated for work done on Change Orders only if the Change Order is Owner-initiated. As the Architect/Engineer is responsible for the professional quality, technical accuracy, and coordination of all services required under this Agreement, the Architect/Engineer shall be liable to the Owner for costs and/or damages resulting from errors, deficiencies, or omissions in designs and services furnished.

3.5.5.1 When a Change Order to the Contract for Construction is required because of errors, deficiencies, or omissions, the Owner shall consider the extent to which the Architect/Engineer may be reasonably liable.

3.5.5.2 Change Orders as a result of errors, deficiencies, or omissions through defective design, insufficient information in the Contract Documents, foreseeable conditions, deficient planning, phasing and foresight, deficient coordination between disciplines or negligence by the Architect/Engineer shall be performed at his expense as follows:

3.5.5.2.1 Errors - The Architect/Engineer shall be responsible for all costs in order to make the Owner whole which shall include, but not be limited to, design, testing, and construction expenses.

3.5.5.2.2 Deficiencies and Omissions - The Architect/Engineer shall be responsible for all design and those costs over-and-above what the Owner would have paid had the omission been included in the as-bid Contract Documents. Over-and-above costs may be negotiated between the Owner and Architect/Engineer.

3.5.6 The Architect/Engineer shall not be reimbursed nor receive additional fees for time extensions of the Construction Contract for negligent, deficient, or poor performance with regard to: submittals and shop drawings, requests for information, pay requests, all Change Orders other than Owner-initiated Change Orders. Should the Contract for Construction be delayed for an extended period, regardless of fault or cause, any additional fees for the Architect/Engineer shall be determined after Substantial Completion or after all claims and/or disputes have been resolved. In all instances, compensation shall be limited to additional site visits, processing of pay requests, and participation in disputes/claims as defined in this Agreement that occur between Owner and Contractor for which the Architect/Engineer is not at fault either partly or wholly.

3.5.7 The Architect/Engineer shall interpret and decide matters concerning performance of the Owner and Contractor under and requirements of, the Contract Documents upon written request of either the

Owner or Contractor. The Architect/Engineer's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

- 3.5.8 Interpretations and decisions of the Architect/Engineer shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and initial decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for the results of interpretations or decisions so rendered in good faith.
- 3.5.9 The Architect/Engineer shall render initial decisions on claims, disputes or other matters in question between the Owner and Contractor as provided in the Contract Documents.

EXECUTION OF THIS AGREEMENT

This Agreement entered into as of the day and year first written above:

Architect/Engineer:

Signature

Print

Title

Is this company incorporated? Yes _____ No_____

Person signing for the Architect/Engineer shall be a principle owner in the firm or a corporate officer and be legally able to bind the Architect/Engineer to all provisions of this Agreement.

Owner:

STATE OF MONTANA

THOMAS B. O'CONNELL
Administrator, Architecture & Engineering Division
for the DIRECTOR, DEPARTMENT OF ADMINISTRATION

Date